

1927

c 235 Local Improvement Act

Ontario

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CHAPTER 235.

The Local Improvement Act.

INTERPRETATION.

1. In this Act,—

Interpre-
tation.

- (a) "Bridge" shall include a viaduct, a culvert, a subway and an embankment and shall also include a pavement on a bridge. "Bridge."
- (b) "Clerk" shall mean and include the clerk of the municipality and any officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by the clerk. "Clerk."
- (c) "Constructing" and "construction" shall include reconstructing and reconstruction, wholly or in part, when the lifetime of the work has expired. "Constructing." "Construction."
- (d) "Corporation" shall mean the corporation of a municipality. "Corporation."
- (e) "Corporation's portion of the cost" shall mean that part of the proportion of the cost of a work which is not to be specially assessed, but is payable by the corporation. "Corporation's portion of the cost."
- (f) "Council" shall mean the council of the corporation of a municipality. "Council."
- (g) "County" shall include "district." "County."
- (h) "Curbing" shall include a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter. "Curbing."
- (i) "Engineer" shall include an officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by an engineer. "Engineer."
- (j) "Frontage," when used in reference to a lot abutting directly on a work, shall mean that side or limit of the lot which abuts directly on the work. "Frontage."

- "Judge of the county court."
(k) "Judge of the county court" shall mean and include the judge and a junior judge of a county or district court.
- "Lifetime."
(l) "Lifetime," as applied or applicable to a work, shall mean the lifetime of the work as estimated by the engineer, or in case of an appeal as finally determined by the court of revision or the judge, as the case may be.
- "Lot."
Rev. Stat.
c. 238.
(m) "Lot" shall mean a subdivision or a parcel of land which by *The Assessment Act* is required to be separately assessed, and "lots" shall mean more than one lot as so defined.
- "Municipality."
(n) "Municipality" shall include a union of townships, a municipality composed of more than one township, a township, a city, a town, a village, but not a county.
- "Owner."
"Owners."
(o) "Owner" and "owners" shall mean respectively the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land, and, except in the case of a township, shall include a tenant for years, the unexpired term of whose tenancy including any renewal thereof to which he is entitled extends for not less than the period during which the special assessment for the work is to be made, if by the terms of his tenancy he would be liable for the payment of the special assessment for the work, but shall not include a person who is, or is assessed as, owner, where there is a tenant for years of the land, who is an owner within the meaning of this clause.
- "Owners' portion of the cost."
(p) "Owners' portion of the cost" shall mean that part or portion of the cost of a work which is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work.
- "Pavement."
(q) "Pavement" shall include any description of pavement or roadway.
- "Paving."
(r) "Paving" shall include macadamizing, planking, and the laying down or construction of any description of pavement or roadway and the construction of a curbing.
- "Publication."
"Published."
(s) "Publication" and "published" shall mean insertion in a newspaper published in the municipality, if there is a newspaper published therein, or, if there is none, then in a newspaper published in the county in which the municipality is situate.

- (t) "Sewer" shall include a common sewer and a drain "Sewer." and two or more sewers connected as a system of sewers.
- (u) "Sidewalk" shall include a footway and a street "Sidewalk." crossing.
- (v) "Specially assessed" shall mean specially rated for "Specially assessed." or charged with part of the cost of a work.
- (w) "Street" shall include a lane, an alley, a park, a "Street." square, a public drive, and a public place, or a part of any of them.
- (x) "Value" shall mean assessed value, exclusive of "Value." buildings, according to the last revised assessment roll of the municipality.
- (y) "Watermain" shall include two or more watermains "Water- connected in a system of waterworks and hydrants. main."
- (z) "Work" shall mean a work or service which may "Work." be undertaken as a local improvement.
- (aa) "Work undertaken" shall mean a work which is "Work un- undertaken as a local improvement. 1927, c. 62, dertaken." s. 1.

WORKS WHICH MAY BE UNDERTAKEN AS LOCAL
IMPROVEMENTS.

2.—(1) A work of any of the characters or descriptions hereinafter mentioned may be undertaken by the council of a corporation as a local improvement, that is to say: Works which may be effected as local improvements.

- (a) Opening, widening, extending, grading, altering the grade of, diverting or improving a street;
- (b) Opening or establishing a new street;
- (c) Constructing a bridge as part of a street;
- (d) Constructing, enlarging, or extending a sewer, including a sewer on each side or on one side only of a street;
- (e) Constructing, enlarging or extending a watermain, including a main on each side or one side only of a street;
- (f) Paving a street;
- (g) Constructing a curbing or a sidewalk in, upon or along a street;
- (h) Constructing or maintaining a boulevard where a part of a street has been set apart for the purposes of a boulevard;

- (i) Sodding any part of and planting, maintaining and caring for trees, shrubs and plants upon and in a street;
- (j) The extension of a system of water, gas, light, heat or power works owned by the corporation, including all such works as may be necessary for supplying water, gas, light, including street lighting, heat or power, to the owners of land, for whose benefit such extension is provided;
- (k) In a township where works have been constructed and erected for the supply of electrical power to owners, for constructing and erecting in connection with such works such further works, plant, appliances, and equipment as may be necessary for street lighting;
- (l) Acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive;
- (m) Constructing on petition only, retaining walls, dykes or breakwaters along the banks of rivers or the shores of lakes;
- (n) In the case of cities and towns only, constructing and erecting on petition only, on any street or part of a street, equipment, plant and works for the purpose of supplying electric light or power, including standards and underground conduits and wires, to the extent to which the cost of the same exceeds the cost of the equipment, plant and works which would otherwise be provided at the expense of the corporation at large;
- (o) Constructing a subway under a railway;
- (p) Subject to the provisions of section 25 for re-surfacing with asphalt or other suitable material, a pavement having a foundation which in the opinion of the engineer is sufficient therefor although the lifetime of the existing pavement has not expired. When any work undertaken under this clause is such as might entitle it to a provincial grant, the approval of the Department of Public Highways shall be first had and obtained with respect to the suitability of the foundation.

(2) Nothing in this section shall extend or apply to a work of ordinary repair or maintenance. 1927, c. 62, s. 2.

3.—(1) Where the work is the construction of a pavement or watermain, the council, before proceeding with the work, may construct all works necessary for surface drainage in connection therewith and may make all necessary private drain connections from the main sewer to the street line on either or both sides, and may also lay all necessary water service pipes and stop cocks and make all necessary alterations in the same, and where gas works are owned by the corporation the council may lay all necessary gas mains, service pipes and stop cocks and make all necessary alterations in the same, and where the work is the construction of a sewer the council may make all necessary private branch drains and connections to the street line on either or both sides; but the cost of a water or gas service pipe or stop cock and any alteration of the same and the cost of a private branch drain and connection shall be specially assessed only upon the particular lot to serve which it was constructed or effected by an equal special rate per foot of the frontage of such lot.

Works which may be undertaken in connection with a pavement, watermain or sewer.

(2) Where the work is the construction of a pavement, the council may from time to time during the progress of the work, upon the written request of the owner of the lot to be served, provide for the construction, as part of the pavement, of an approach of such width and character as the council may determine, from the boundary line of the pavement to the street line, so as to form an approach to a particular lot, and the cost of such approach shall be specially assessed upon the particular lot so served.

Construction of approach to lot.

(3) The works mentioned in subsection 1 shall be deemed part of the work of construction of the pavement, sewer or watermain in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection.

To be part of work of construction.

(4) The amount to be assessed against each lot in respect of a private drain connection, water service pipe or gas service pipe shall be the cost thereof from the centre of the street to the street line, whether or not the sewer or water or gas main is laid in the centre of the street, but this subsection shall not apply to private drain connections where a sewer is constructed on each side of a street. 1927, c. 62, s. 3.

How to be assessed.

4.—(1) Where a sewer, water main or gas main has been or may hereafter be constructed, the council, by a vote of two-thirds of all the members thereof at any general or special meeting, may undertake the construction of private drain connections, water service pipes or gas service pipes from the sewer, water main or gas main to the street line on either or both sides as a local improvement without any petition therefor, and the cost of each private drain connection, water service pipe or gas service pipe shall be specially assessed upon the particular lot for or in connection with which it is

Construction of private drain connections without petition.

constructed by an equal special rate per foot of the frontage of such lot, and the owners of the land shall not have the right of petition provided for by section 12, and the provisions of subsection 4 of section 3 shall apply.

(2) Where a private drain connection, gas or water service pipe has been constructed by a municipality at the request of the owner of land and the council has not proceeded under subsection 1, the amount due may be inserted in the collector's roll and be collected in the same manner as taxes. 1927, c. 62, s. 4.

Purchase by township of works already constructed.

Rev. Stat. c. 233.

5. In a township, town or village in unorganized territory where the owners of land have constructed a work which might have been undertaken as a local improvement, the council, upon the petition of three-fourths in number of the owners of the land to be immediately benefited by the acquisition of the work, representing at least two-thirds of the value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under the provisions of *The Municipal Act*, and the purchase money may be provided by the council and may be assessed in like manner as if the work were a work which the council were undertaking as a local improvement, and all the provisions of this Act shall apply as if the council were undertaking the work so acquired as a local improvement. 1927, c. 62, s. 5.

Approval of Ry. and Municipal Bd. required in the case of certain works.

6.—(1) Where the work is the opening, widening, or extension of a street or the construction of a bridge, and the cost of the work as estimated by the engineer will exceed \$50,000, any person whose land is to be specially assessed may, within ten days after notice to him of the intention of the council to undertake the work, give notice that he objects to the work being undertaken upon the ground that it is a work for the general benefit of the municipality or of a section or district thereof, and if such notice is given the work shall not be undertaken without the approval of the Railway and Municipal Board.

Approval may be withheld.

(2) If the Board, after notice to the corporation and to all persons interested and after hearing such of them as shall request to be heard, determines that for the reasons mentioned in subsection 1, or either of them, it is proper to do so the Board may withhold its approval.

Apportionment of cost of work.

(3) If the Board determines that the cost of the work should be borne by the corporation or by the owners of the land situate within a section or district of the municipality, the Board may make an order so declaring, and in that event the council may, notwithstanding the provisions of this Act, or of any by-law passed under the authority of this Act, undertake and proceed with the work at the cost of the corporation or of the section or district thereof mentioned in the order, as the case may be.

(4) The Board, instead of making an order under subsection 3 may direct that if the work is undertaken such part of the cost of it as the Board may deem just shall be charged upon the lots abutting directly upon the work, in accordance with the provisions of this Act and that the residue of it shall be borne by the corporation or partly by the corporation and partly by a section or district of the municipality in such proportions as the Board may direct, and if the council undertakes the work, it shall conform with the directions of the order.

Or may direct the cost to be charged upon the abutting lots.

(5) The special assessment upon the lots shall not be made by the Board, but by the council, in accordance with the provisions of this Act. 1927, c. 62, s. 6.

Special assessments to be made by the council.

PROCEDURE FOR UNDERTAKING WORK.

7.—(1) A by-law may be passed for undertaking a work as a local improvement:

Methods of undertaking works.

(a) on petition; or

(b) without petition, on the initiative of the council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause (l) of section 2; or

(c) on sanitary grounds, as mentioned in section 9; or

(d) without petition in the case mentioned in sections 4 and 8.

(2) Instead of passing separate by-laws for each work the council may pass one by-law in respect of several works. 1927, c. 62, s. 7.

One by-law may include several works.

8.—(1) Where the council determines and by by-law or resolution, passed at any general or special meeting by a vote of two-thirds of all the members thereof, declares that it is desirable that the construction of a curbing, pavement, sidewalk, sewer, watermain or bridge, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street or the extension of a system of waterworks, should be undertaken as a local improvement, the council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 12.

Construction of certain works on a two-thirds vote of council without petition.

(2) Where the council proceeds with any local improvement under subsection 1, a majority of the owners representing at least one-half the value of the lots which are to be specially assessed therefor, being dissatisfied with such local improvement or with the manner in which it has been undertaken, may by petition apply to the Railway and Muni-

Objection to construction of work on two-thirds vote of council.

icipal Board for relief, and the Board may thereupon investigate the complaint and make such order with respect to the local improvement as may seem proper, and after notice to the clerk of the municipality of the application and pending its determination by the Board, the council shall not proceed with the local improvement work.

Sufficiency
of petition.

(3) The sufficiency of such petition shall be determined in the manner provided by section 15.

Filing of
petition.

(4) Such petition shall be deposited with the secretary of the Railway and Municipal Board within twenty-one days after the publication of notice of the council's intention to undertake the work.

Time for
passing
by-law.

(5) The by-law for undertaking the work shall not be passed until the expiry of the said twenty-one days. 1927, c. 62, s. 8.

Construction
of sewer on
recom-
mendation
of Minister of
Health.

9. Where the council, upon the recommendation of the Minister of Health or of the local board of health of the municipality, determines and, by by-law passed at a regular or special meeting of the council by vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer or watermain as a local improvement is necessary or desirable in the public interest on sanitary grounds, the council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 12. 1927, c. 62, s. 9.

Publication
of notice of
intention.

10. Where it is intended to proceed under section 4, 8 or 9, the council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention, Form 1, to be published. Such notice may relate to and include any number of different works. 1927, c. 62, s. 10.

Number of
signatures
to petition
required.

11. The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half of the value of the lots liable to be specially assessed. 1927, c. 62, s. 11.

Initiative
plan—pub-
lication and
service of
notice of
intention to
construct
work.

12.—(1) Where the council proceeds on the initiative plan, notice of the intention of the council to undertake the work, Form 2, shall be given by publication of the notice and by service of it upon the owners of the lots liable to be specially assessed; and unless within one month after the first publication of the notice a majority of the owners representing at least one-half of the value of the lots which are liable to be specially assessed petition the council not to proceed with it the work may be undertaken as a local improvement.

(2) The notice shall be sufficient if it designates by a general description the work to be undertaken and the street or place whereon or wherein, and the points between which the work is to be done, and the number of the instalments by which the special assessment is to be payable.

Contents
of notice.

(3) The notice may relate to and include any number of different works.

May cover
different
works.

(4) The notice may be served upon the owner:

Manner of
service.

(a) personally; or

(b) by leaving it at his place of business or of residence if within the municipality; or

(c) by mailing it at a post office addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality; or

(d) if the place of business and of residence of the owner are not known, by leaving the notice with a grown-up person on the lot of the owner which is liable to be specially assessed, if there is a grown-up person residing thereon.

(5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner which is liable to be specially assessed, service upon the owner shall not be requisite.

Where
residence,
etc.,
unknown.

(6) Publication and service of the notice may be proved by affidavit or statutory declaration, which before the passing of the by-law by which the special assessment is made to defray the cost of the work, shall be *prima facie* evidence, and after the passing of the by-law shall be conclusive evidence of the matters set forth therein. 1927, c. 62, s. 12.

Proof of
publication
and service.

13.—(1) Where the council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under the provisions of section 12, the council shall not proceed on the initiative plan with regard to the same work for a period of two years after the presentation of the petition; provided always that in a municipality in which a by-law passed under the provisions of section 60 is in force the prohibition contained in this section shall not prevent the council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken.

Effect of
petition
against
work.

Proviso.

(2) Nothing in this section shall prevent the council from exercising the power conferred by section 8. 1927, c. 62, s. 13.

Powers con-
ferred by
section 8
not affected.

Lot of
petitioner
to be
described.

14. There shall be set out opposite to every signature to the petition for or against a work a description of the lot of which the petitioner is the owner by its number or such other description as will enable the clerk to identify it. 1927, c. 62, s. 14.

Clerk to
determine
sufficiency
of petition.

15.—(1) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced shall be final and conclusive.

What
owners to
be counted.

(2) Where the sufficiency of a petition has been determined by the clerk it shall be deemed to have been and to be a sufficient petition notwithstanding that changes may be made by the court of revision or by the judge in the lots to be specially assessed which have the effect of increasing or reducing the number of the lots.

Determining
value of
lots.

(3) When it is necessary to determine the value of any lot and the same cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of such lot and the value thereof as so fixed and determined shall be deemed for the purpose of this Act to be the assessed value thereof, and his determination shall be final and conclusive.

Owner
whose name
is not on
roll may
petition.

(4) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is a petitioner, he shall be deemed an owner if his ownership is proved to the satisfaction of the clerk, and if the person who appears by the assessment roll to be the owner is a petitioner his name shall be disregarded in determining the sufficiency of the petition.

Case of
joint
owners.

(5) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition:

(a) they shall be reckoned as one owner only;

(b) they shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition.

Witnesses.

(6) The clerk, for the purpose of any inquiry pending before him under the provisions of this section may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the county court of the county in which the municipality lies.

(7) A witness, if a resident of the municipality, shall be bound to attend without payment of any fees or conduct money, and if not a resident of the municipality shall be entitled to fees and conduct money according to the county court scale. Witness fees.

(8) Where any person complains to the clerk that his signature to the petition was obtained by fraud, misrepresentation or duress the complaint shall be investigated and determined by a judge of the county court, and the clerk shall delay certifying until he has received the finding or report of the judge upon the complaint, and in determining as to the sufficiency of the petition the clerk shall give effect to such finding or report. 1927, c. 62, s. 15. Complaints to be investigated by county judge.

16. A petition for or against the undertaking of a work shall be lodged with the clerk, and shall be deemed to be presented to the council when it is so lodged. 1927, c. 62, s. 16. Petitions to be lodged with clerk.

17. No person shall have the right to withdraw his name from, and no name shall be added to, a petition after the clerk has certified as to its sufficiency. 1927, c. 62, s. 17. Withdrawal of name from petition.

18. Where a by-law has been heretofore or may hereafter be passed for undertaking any work as a local improvement and the council deems it inadvisable or impracticable to complete the work, the council may, by by-law amend such by-law and provide for the carrying out of part only of the work mentioned therein (or for the substitution in whole or in part of another kind or character of work of the same class as that undertaken in such by-law) but all the provisions of this Act shall apply to such partial work as if it had been originally undertaken as one entire work or to such substituted work as if it had been the work originally undertaken, but such amending by-law shall take effect only on being approved by the Railway and Municipal Board. 1927, c. 62, s. 18. Power to undertake part of work only.

19. After passing a by-law for establishing, extending, widening or diverting a highway, and before completion of the work, the council may apply to the Railway and Municipal Board for leave to pass an amending by-law providing for a deviation in the course or location of the highway as defined in the original by-law, and the Board may make an order approving of and validating an amending by-law accordingly on such terms and conditions and after such hearing as it may consider proper, and subject to the terms of the order the provisions of this Act shall apply to such altered work as if it had been provided for in the original by-law. 1927, c. 62, s. 19. Power of council to pass amending by-law; and of Board to make order pursuant thereto.

HOW COST OF WORK TO BE BORNE.

Frontage
rate.

20.—(1) Except as in this Act is otherwise expressly provided, the entire cost of a work undertaken shall be specially assessed upon the lots abutting directly on the work, according to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost.

Items which
may be
included
in cost.

(2) The following may be included in the cost of the work:

- (a) Engineering expenses;
- (b) Cost of advertising and service of notices;
- (c) Interest on temporary loans;
- (d) Compensation for lands taken for the purposes of the work or injuriously affected by it and the expenses incurred by the corporation in connection with determining such compensation;
- (e) The estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them. 1927, c. 62, s. 20.

Deduction
of contribu-
tions from
cost.

21.—(1) Where a municipality receives a contribution in cash to be applied towards the cost of any work the amount of such contribution shall be deducted from the total cost of such work and the balance shall for all purposes be deemed the actual cost of the work.

Contribu-
tion by way
of annuity—
how treated.

(2) If such contribution be by way of an annuity, it shall be capitalized and the capitalized value shall be deducted as aforesaid but the municipality shall nevertheless borrow the full amount of the cost of the work and shall specially assess against the owners of lots their share of the cost ascertained after making the deduction as aforesaid, and the balance of the total cost shall be the corporation's portion of the cost, and the annuity shall be applied in reduction of the annual rate levied to meet the corporation's portion of the cost. 1927, c. 62, s. 21.

Guarantee
of work.

22.—(1) Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel, and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required.

(2) In all municipalities where such guarantee is required where any local improvement is undertaken by the corporation and constructed by day labour, the corporation may assess as part of the cost thereof a reasonable allowance to make good any imperfections therein due to materials, workmanship or construction during the lifetime thereof as fixed by the court of revision, the amount of such allowance to be subject to revision by the court of revision. 1927, c. 62, s. 22.

Assessment of allowance to make good imperfections.

23. There shall be included in the corporation's portion of the cost,—

Corporation's portion of cost.

(a) at least one-third of the cost of a sewer having a sectional area of more than four feet; and

(b) the entire cost of all hydrants constructed in connection with a watermain and the entire cost of all culverts, catch basins and other works which are provided for surface drainage and which are incidental to the construction of the sewer or pavement; and

(c) so much of the cost of a work as is incurred at street intersections. 1927, c. 62, s. 23.

24.—(1) Where the work is the construction of a sewer or watermain the council may in the by-law for undertaking the work, passed by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that the remainder of the cost of such sewer or water main shall be borne by the corporation.

Apportionment of cost of sewers.

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 23, is to be included in the corporation's portion of the cost. 1927, c. 62, s. 24.

Part to be borne by corporation.

25. Where the work undertaken is the resurfacing of a pavement as provided by clause *p* of subsection 1 of section 2 the corporation shall assume and pay the special assessments therefor charged against the lots fronting or abutting on the work until the expiration of the period within which such lots are specially assessed for the then existing pavement. 1927, c. 62, s. 25.

Assumption by corporation of special assessments in certain case.

26.—(1) Subject to the provisions of subsection 3 the council of the corporation of a municipality in which there is not in force a by-law passed under the provisions of section 60 applicable to the work may, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as to the council may seem proper of the cost of every granolithic, stone, cement,

Corporation may assume part of cost of sidewalk or pavement.

asphalt or brick sidewalk, or of every pavement or curbing or of works, plant, appliances and equipment for street lighting constructed as a local improvement which otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation.

By-law not to be repealed except by a three-fourths vote.

(2) Such by-law shall not be repealed except by vote of three-fourths of all the members of the council.

Assumption of larger share of certain named work.

(3) The council by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council and approved of by the Railway and Municipal Board may provide that the corporation shall assume a larger share of the cost of a certain named work undertaken on a certain named street than is provided in the by-law passed under subsection 1, with reference to works of the same class. 1927, c. 62, s. 26.

Reduction of assessment of corner lots, etc.

27.—(1) In the case of corner lots and triangular or irregularly shaped lots situate at the junction or intersection of streets a reduction shall be made in the special assessment which otherwise would be chargeable thereon sufficient, having regard to the situation, value and superficial area of such lots as compared with the other lots, to adjust the assessment on a fair and equitable basis.

Of lots unfit for building purposes.

(2) Where a lot is for any reason, wholly or in part, unfit for building purposes a reduction shall also be made in the special assessment which otherwise would be chargeable thereon, sufficient to adjust its assessment as compared with that of the lots fit for building purposes on a fair and equitable basis.

How reduction to be made.

(3) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction, but the whole of the lot shall be charged with the special assessment as so reduced.

Reduction to be borne by corporation.

(4) The amount of any reduction made in the assessment of any lot under the provisions of this section shall not be chargeable upon the lots liable to be specially assessed, but shall be paid by the corporation. 1927, c. 62, s. 27.

Assessment of cost of sidewalk or curb.

28.—(1) Subject to the provisions of subsection 2, where the work undertaken is a sidewalk or curbing or a sewer or watermain constructed on one side of a street to serve only the lots on that side, only the land abutting on that side of the street upon which the work is constructed shall be specially assessed.

Assessment of cost of sidewalks in townships on petition.

(2) On petition (sufficiently signed) of the owners on both sides of a street in a township praying that a sidewalk be constructed on one side only of the street and that a certain portion not exceeding one-third of the owners' share of the

cost be assessed on the lots fronting or abutting on the other side of the street the council may specially assess the lands on the other side of the street in conformity with the petition and if a sidewalk is thereafter constructed on the other side of the street the owners' portion of the cost shall be specially assessed in like manner. 1927, c. 62, s. 28.

29.—(1) Where the work is the acquisition, establishment, laying out and improving of a park or square or the construction of a bridge or the construction of a sewer or watermain of a larger capacity than is required for the purpose of the abutting land, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street, and the council is of opinion that for any reason it would be inequitable to charge the cost of the work on the land abutting directly thereon, the council may in the by-law for undertaking the work passed by the vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost, as to the council may seem just, and so much of the residue thereof as may seem just may be specially assessed upon the land abutting directly on the work, and so much of such residue as may seem just on such other land as is immediately benefited by the work.

Apportionment of cost of a bridge or the opening etc., of a street.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 20, and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 32 and 33. 1927, c. 62, s. 29.

Method of assessment.

30. Where the work is the construction of a sewer and it is necessary to construct an outlet for the sewage, and the lands fronting or abutting on or through which such outlet is constructed are not benefited or served thereby, the cost of the outlet shall be deemed to be a part of the cost of the sewer and shall not be specially assessed against the lands fronting or abutting on the outlet or through which the outlet is constructed. 1927, c. 62, s. 30.

Assessment of cost of outlet for sewage.

31.—(1) Where the work of acquiring, establishing, opening, widening, extending or diverting a street involves the taking of a portion of a lot abutting on the work, or of one or more of a number of lots or contiguous lots owned by the same person, the council may agree with the owner that in consideration of the dedication or gift of the land required to be taken or a release of or reduction in the owner's claim for compensation, the remainder of his lot or his remaining lots as the case may be shall be charged with no part or a specified portion or proportion only of the special assessment which would otherwise be chargeable thereon in respect of the cost

Power of council to grant owner reduced assessment by way of compensation.

of the work, and the special assessment roll shall be prepared in conformity with such agreement notwithstanding anything to the contrary in this Act contained.

Appeal.

(2) An appeal shall lie to the court of revision and to the county judge from the action of the council in like manner as an appeal lies under the provisions of this Act with regard to the cost of a work undertaken. 1927, c. 62, s. 31.

Assessment
of non-
abutting
land equally
benefited.

32. Where land not abutting directly upon a work is to be specially assessed, if the whole of it is equally benefited, the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage. 1927, c. 62, s. 32.

Assessment
of non-
abutting
land
unequally
benefited.

33. Where land not abutting directly upon a work is to be specially assessed, and the whole of it is not equally benefited, such land shall be divided into as many districts or sections as there are different proportions of benefit and so that a district or section shall embrace all the land which will be benefited in the same proportion, and its proper portion of the cost shall be assigned to each district or section, and the portion of the cost to be borne by each district or section shall be specially assessed on the lots therein according to the extent of their frontage by an equal special rate per foot of such frontage. 1927, c. 62, s. 33.

PROCEDURE FOR MAKING SPECIAL ASSESSMENT.

Where all
of owners'
portion
assessed on
abutting
land.

34.—(1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the council shall procure to be made,—

- (a) a report as to the lifetime of the work;
- (b) a report as to the reductions, if any, which ought to be made under the provisions of section 27 in respect of any lot and the aggregate amount of such reductions;
- (c) an estimate of the cost of the work;
- (d) a statement of the share or proportion of the cost which should be borne by the land abutting directly on the work and by the corporation respectively;
- (e) a report as to the number of instalments by which the special assessment should be made payable.

Where part
of owners'
portion
assessed
on non-
abutting
land.

(2) In the case of a work part of the owners' portion of the cost of which may be specially assessed on land not abutting directly on the work, before passing the by-law for undertak-

ing the work, in addition to procuring the reports and estimate mentioned in subsection 1, the council shall procure to be made a further report stating,—

- (a) whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work; and
- (b) if inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work and what land not abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it. 1927, c. 62, s. 34.

35. Before a special assessment is imposed the council shall procure to be made a special assessment roll in which shall be entered,—

Special
assessment
roll to be
prepared.

- (a) every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed;
- (b) every lot which, but for the provisions of section 54, would be exempt from the special assessment and the number of feet of its frontage;
- (c) the rate per foot with which each lot is to be so assessed;
- (d) the number of instalments by which the special assessment is to be payable. 1927, c. 62, s. 35.

36. The council may provide for the making of the reports, statements, estimates and special assessment roll mentioned in sections 34 and 35 in such manner and by such officer of the corporation or person as the council may deem proper, and may do so by a general by-law applicable to all works or to any class or classes of them or by a by-law applicable to the particular work. 1927, c. 62, s. 36.

How
reports,
statements,
etc., to be
made.

37.—(1) Before a special assessment is imposed a sittings of the court of revision for the hearing of complaints against the proposed special assessment shall be held.

Holding of
court of
revision.

(2) Ten days' notice of the time and place of the sittings shall be given by publication, and at least fifteen days before the day appointed for the sittings a notice, Form 3, shall be mailed to the owner of every lot which is to be specially assessed. 1927, c. 62, s. 37.

Time and
place of.

Special assessment roll to be kept open for ten days.

38. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the court of revision. 1927, c. 62, s. 38.

Statement of cost of work for court of revision.

39. A statement showing under appropriate heads the actual cost of the work, verified by the certificate of the clerk, assessment commissioner or treasurer of the municipality shall be delivered to the chairman of the court of revision before the meeting of the court. 1927, c. 62, s. 39.

Estimate of cost of unfinished work and unsettled claims.

40.—(1) In ascertaining the actual cost of the work under the next preceding section where in the opinion of the engineer and assessment commissioner or treasurer the cost of the unfinished work and any unsettled claims for lands taken or injuriously affected by the opening, widening, extending, grading, altering the grade of, diverting or improving a street, will not exceed in amount 25 per centum of the total estimated cost of the work, the engineer and assessment commissioner or treasurer may estimate the cost of such unfinished work, and the amount of all such claims, and the amount may be included in the actual cost to be ascertained and certified under the next preceding section, and shall be deemed to be the correct amount thereof subject to any order made with reference thereto by the court of revision.

(2) If the cost of such unfinished work and unsettled claims exceeds the amount so estimated by the engineer and assessment commissioner or treasurer the excess over the estimated amount shall be borne by the corporation.

(3) If the cost of such unfinished work and unsettled claims is less than the estimated cost the balance remaining in the hands of the municipality shall be applied *pro tanto* to payment of the rates to be levied under the by-law. 1927, c. 62, s. 40.

Powers of Court.

41.—(1) The court of revision shall have jurisdiction and power to review the proposed special assessment and to correct the same as to all or any of the following matters:

- (a) Where the owners' portion of the cost is to be specially assessed against the land abutting directly on the work, as to the following matters:
- i. The names of the owners of the lots;
 - ii. The frontage or other measurements of the lots;
 - iii. The amount of the reduction to be made under the provisions of section 27 in respect of any lot;

iv. As to the lots which, but for the provisions of section 54, would be exempt from special assessment;

v. As to the lifetime of the work; and

vi. As to the rate per foot with which any lot is to be specially assessed;

- (b) Where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, in addition to the matters mentioned in clause (a), as to the lots other than those abutting directly on the work which are or will be immediately benefited by it, and as to the special assessment which such lots should respectively bear;

(c) In all cases as to the actual cost of the work.

(2) The court of revision shall not have jurisdiction or authority to review or to alter the proportions of the cost of the work which the lands to be specially assessed and the corporation are respectively to bear according to the provisions of the by-law for undertaking the work. 1927, c. 62, s. 41.

No power to alter proportions of cost.

42.—(1) Where it appears to the court of revision that any lot which has not been specially assessed should be specially assessed, before finally determining the matter the court shall adjourn its sittings to a future day and shall cause notice, Form 3, to be given to the owner of such lot of the time and place when the adjourned sittings will be held.

Adjourned sittings of Court in case of omission to assess certain lots.

(2) The notice shall be mailed at least six days before the time fixed for the adjourned sittings.

Time for mailing notice.

(3) If the court of revision determines that any such lot ought to be specially assessed, the court shall have jurisdiction and power to fix and determine the amount of the special assessment thereon. 1927, c. 62, s. 42.

Power to fix special assessment of lots.

43. The clerk shall make such corrections in the special assessment roll as are necessary to give effect to the decisions of the court of revision, and the roll when so corrected shall be certified by the clerk, and when so certified, except in so far as it may be further amended on appeal to the judge, such assessment roll and the special assessment shall be valid and binding upon all persons concerned and upon the land specially assessed, and the work in respect of which such special assessment roll has been made and certified, shall be conclusively deemed to have been lawfully undertaken and proceeded with pursuant to and in accordance with the provisions of this Act. 1927, c. 62, s. 43.

When special assessment roll to be final.

Appeal to
county
judge.

44.—(1) The council or the owner of a lot specially assessed may appeal to the judge of the county court from any decision of the court of revision.

Application
of Rev.
Stat. c. 288.

(2) The provisions of *The Assessment Act* as to appeals to the judge shall apply to an appeal under the provisions of subsection 1.

Powers of
judge.

(3) The judge shall have the like jurisdiction and powers as are conferred on the court of revision by section 41, and the provisions of section 42 shall apply where it appears to the judge that any lot not specially assessed ought to be so assessed. 1927, c. 62, s. 44.

BORROWING POWERS.

Temporary
loans.

45.—(1) The council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it

Issue of
debentures.

(2) The council may, when the work undertaken is completed, borrow on the credit of the corporation at large such sums as may be necessary to repay such advances and to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

When
sewerage
works
deemed
to be com-
pleted.

(3) Where the council has undertaken the construction of several sewers connected as a system of sewers, no sewer in such system shall for the purposes of subsections 1 and 2 of this section be deemed to be completed until all the sewers in such system are completed, and there shall be added to the cost of each sewer forming part of the said system of sewers its proportionate share of the whole of the interest upon the temporary loans made by the corporation pending the construction of all the sewers forming the said system as if all the said sewers had been constructed at the same time.

Application
of Rev.
Stat. c. 233.

(4) The provisions of *The Municipal Act* as to by-laws for creating debts shall apply to by-laws passed under the authority of subsection 2, except that it shall not be necessary

(a) that the by-law be submitted to or receive the assent of the electors;

(b) that any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it;

and except that the debentures, save as provided by section 48, shall be payable within the lifetime of the work.

(5) The special rates imposed for the owners' portion of the cost shall form a special fund for the payment of the debentures issued under the authority of subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose.

Special rates for owners' portion to form special fund.

(6) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of so much of the debentures as represent the owners' portion of the cost the council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate, but this shall not relieve the land specially assessed from the special rate thereon.

General rate to meet deficiency in special rate.

(7) The amount borrowed under the provisions of subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of the provisions of *The Municipal Act*, limiting the borrowing powers of the municipality.

Owners' portion not to be deemed part of debenture debt of corporation. Rev. Stat. c. 233.

(8) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken the council may include the same in the estimates of the year. 1927, c. 62, s. 45.

Corporation's portion may be included in yearly estimates.

46.—(1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 45 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law, hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Consolidation of by-laws.

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

Recitals.

(3) It shall not be necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose. 1927, c. 62, s. 46.

Rates not to be imposed by consolidating by-law.

47. Instead of passing a by-law under section 45 in respect of each individual work, a municipal council may pass one by-law in respect of several local improvement works giving in such by-law in respect of each such work substantially the same information as would be given in several by-laws respecting such works, and may provide in such by-law for borrowing the aggregate cost of such several works and for issuing one series of debentures therefor. 1927, c. 62, s. 47.

One by-law for several works.

Term of
annual
instalments
of special
assessment.

48.—(1) The council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the council shall prescribe, but not so as to extend beyond the lifetime of the work unless the work is of the class prescribed in clause (1) of section 2, in which case the annual instalments may extend over a period of not more than forty years.

Interest.

(2) In fixing the amount of the annual instalments a sum sufficient to cover the interest shall be added.

Commuta-
tion of
special
rates.

(3) The council may also either by general by-law or by a by-law applicable to the particular work prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates imposed thereon. 1927, c. 62, s. 48.

Application
of Rev. Stat.
c. 238.

49. The provisions of *The Assessment Act* as to the collection and recovery of taxes, and the proceedings which may be taken in default of payment thereof, shall apply to the special assessments and the special rates imposed for the payment of them. 1927, c. 62, s. 49.

Where by-
law quashed
court may
direct pass-
ing of new
by-law.

50.—(1) If the special assessment in respect of it has become confirmed under the provisions of section 43, no by-law for borrowing money to defray the cost of the work or for imposing the special assessment shall be quashed, set aside or adjudged to be invalid by reason of its illegality or of any defect in it, but the court in which any proceeding for quashing, setting aside or declaring to be invalid the by-law is taken shall on such terms and conditions as to costs and otherwise as may be deemed proper direct the council to amend or to repeal such by-law and, where a repealing by-law is directed, to pass a new by-law in proper form in lieu of the repealed by-law, and it shall be the duty of the council to pass such by-law or by-laws accordingly.

Liabilities
incurred to
be binding.

(2) Every liability or obligation incurred and every debenture issued by the corporation under the authority of any such defective or illegal by-law shall be as effectual and as binding as if the amending or new by-law directed to be passed had been passed and was in force at the time such liability or obligation was incurred or such debenture was issued.

Where court
of its own
motion
directs pass-
ing of new
by-law.

(3) Although no proceeding has been taken to quash, set aside or declare invalid the by-law the council may of its own motion and if required by any person to whom it has incurred any liability on the faith of the by-law shall pass such amending or new by-law as may be necessary to make effectual and binding the liability so incurred and any debenture issued under the authority of such by-law, and the pro-

visions of subsection 2 as to the effect of an amending or new by-law shall apply to any by-law so passed. 1927, c. 62, s. 50.

REPAIR OF WORK.

51.—(1) After a work undertaken has been completed, it shall during its lifetime be kept in repair by and at the expense of the corporation.

Maintenance and repair of work by corporation.

(2) Nothing in this Act shall relieve the corporation from any duty or obligation to keep in repair the highways under its jurisdiction to which it is subject either at common law or under the provisions of *The Municipal Act*, or otherwise, or impair or prejudicially affect the rights of any person who is damaged by reason of the failure of the corporation to discharge such duty or obligation. 1927, c. 62, s. 51.

General duty to repair not affected.

Rev. Stat. c. 233.

52.—(1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so does not put the work in repair, a judge of the Supreme Court, or the judge of the county court of the county in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair.

Compelling corporation to repair.

(2) The judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may deem proper.

Determination as to necessary repairs.

(3) Where a person under whose supervision the repairs are to be made is appointed, the judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

Remuneration of person supervising.

(4) The order shall have the same effect and may be enforced in like manner as a peremptory mandamus.

Effect of order.

(5) If the corporation does not comply with the order of the judge, in addition to any other remedy to which the applicant for the order may be entitled, the judge may authorize the repairs to be made by the applicant, and if made by him the cost thereof shall be ascertained and determined by the judge, and when so ascertained and determined payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

When repairs may be made by applicant and payment therefor.

Appeal to
Divisional
Court.

(6) An appeal shall lie to a Divisional Court from any order made under the provisions of this section. 1927, c. 62, s. 52.

ASSESSMENT OF LAND EXEMPT FROM TAXATION.

Certain
lands ex-
empt from
taxation
liable to be
specially
assessed.

Rev. Stat.
c. 238.

53. Land on which a church or place of worship is erected or which is used in connection therewith, and the land of a university, college or seminary of learning, whether vested in a trustee or otherwise, except schools maintained in whole or in part by a legislative grant or a school tax, shall be liable to be specially assessed for local improvements, notwithstanding the provisions of *The Assessment Act*. 1927, c. 62, s. 53.

Land
exempt from
taxation for
local im-
provements
to be
specially
assessed.

54. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon which fall due while such land remains exempt shall not be collectible from the owner thereof but shall be paid by the corporation. 1927, c. 62, s. 54.

STREET CLEANING, ETC.

Cleaning,
watering,
lighting
streets, etc.

55.—(1) The council may by by-law provide that thereafter the annual cost of cleaning, clearing of snow and ice, watering, oiling, sweeping, lighting, light supplied in excess of that supplied at the expense of the corporation at large, cutting grass and weeds and trimming trees and shrubbery on any street, or any one or more of such services shall be specially assessed upon the land abutting directly on such street according to the frontage thereof, and the foregoing provisions of this Act shall not apply to such services.

Street
lighting,
apportion-
ment of cost.

(2) As to street lighting the by-law may provide that a part of the annual cost may be assessed upon the lands abutting directly on the street and that the remainder of such cost shall be assumed by the corporation at large.

Application
to defined
areas.

(3) Instead of naming the particular street or streets the by-law may apply to all the streets in a defined section or sections of the municipality.

Special rate.

(4) Where the council so provides the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes.

Duration
of by-law.

(5) The by-law shall remain in force from year to year until repealed. 1927, c. 62, s. 55.

56.—(1) Where a highway forms the boundary between two or more municipalities although it lies wholly within one or partly within two or more of them, the corporations of the municipalities may agree

Power to construct works on boundary lines.

- (a) to undertake in respect of such highway or any part of it any work or service which may be undertaken as a local improvement under this Act;
- (b) as to the council by which the work or service shall be undertaken;
- (c) as to whether the corporations' portion of the cost shall be provided for by borrowing or shall be included in the estimates of the year; and
- (d) as to the proportions in which the corporations' portion of the cost shall be borne by such corporations respectively.

(2) The council of the municipality which according to the agreement is to undertake the work or service, hereinafter called the initiating council, shall have all the powers and perform all the duties in respect of it which may be exercised or are to be performed by the council of a municipality which undertakes a work or service as a local improvement under this Act, and the highway shall, for the purposes of the work or service, be deemed to lie wholly within and to be under the exclusive jurisdiction of the initiating council.

Powers and duties of initiating council.

(3) The clerk of the initiating council shall forthwith, after the passing of its by-law imposing the special rates to defray the owners' portion of the cost, deliver or transmit by registered post to the clerk of any municipality in which is situate any land upon which a special rate has been imposed a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Certified copies of by-law to be sent to clerks of other municipalities.

(4) The rates required by the by-law to be levied and collected in any year upon land in any municipality other than that by the council of which the by-law is passed shall be collected by the council of such municipality in like manner as if such rates had been imposed by that council.

Collection of rates in other municipalities.

(5) The corporation of each of the municipalities other than that by the council of which the work or service is undertaken shall pay to the last mentioned corporation the sums which are to be levied and collected in that year under the next preceding subsection, and such payment shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Payment over to initiating council.

Payment not
to relieve
land assessed.

(6) Such payment shall not relieve any land specially assessed from the special rate thereon, but it shall remain liable for the special rate until it is paid.

Payment
over where
corporations'
part in-
cluded in
estimates.

(7) Where the agreement provides that the corporations' portion of the cost shall be included in the estimates of the year, the corporation of each of the municipalities, other than that by the council of which the work or service is undertaken, shall pay to that corporation when the amount of the corporations' portion of the cost is finally determined its share or portion of such cost, and the amount so paid shall be provided for in the estimates for the then current year of the council of the corporation which is to pay it.

Where
corporations'
portion
met by
issue of
debentures.

(8) Where the agreement provides that the amount required to defray the corporations' portion of the cost is to be borrowed, the corporation of each of the municipalities, except that by the council of which the work or service is undertaken, shall in each year during the currency of the debentures issued for the money borrowed pay to that corporation the same proportion of the principal and the interest payable in that year as under the agreement it is to bear of the corporations' portion of the cost, and the amount which the by-law for borrowing the money requires to be raised in that year shall be reduced by the sum so paid.

Maintenance
and repair.

(9) The corporations shall bear the cost of keeping the work in repair in the proportions in which the cost of the work is to be borne by them. 1927, c. 62, s. 56.

Construction
of bridge
over ravine
separating
municipalities.

57.—(1) Where a ravine separates the lands of adjoining municipalities and it is deemed desirable to construct a bridge connecting the lands of such municipalities, the council of either municipality may pass a by-law for undertaking the work of constructing the bridge or of constructing the bridge combined with any other work which may be undertaken as a local improvement and the provisions of this Act shall apply except that, subject to the provisions of subsections 2 and 3, no part of the cost of the work shall be assessed upon lands in the other municipality.

Agreement
with other
municipality
as to pro-
portion of
cost to be
borne by it.

(2) Where lands which will be benefited by the work lie within the limits of any municipality other than the initiating municipality, the council of the initiating municipality may agree with the council of such other municipality as to the proportion of the cost of the work to be borne by the corporation of that municipality and the lands within it, and such last-mentioned council may pass a by-law for the issue of debentures for the amount of such proportion, payable within such period not exceeding twenty years, as the council may determine, and it shall not be necessary that the by-law be submitted to the vote of the electors.

(3) The council of such other municipality may proceed under this Act for the purpose of assessing the lands within it which will be benefited by the work their proper proportion of the amount which it shall have agreed to contribute to the cost of the work in the same way as if the work had been undertaken by such council and the amount to be so contributed were the cost of the work, and the proceedings shall be in accordance with the provisions of this Act. 1927, c. 62, s. 57.

Powers of other municipality to specially assess land.

SPECIAL PROVISIONS AS TO TOWNSHIPS, VILLAGES, ETC.

58. The council of a township or village may undertake as a local improvement

Waterworks.

(a) the construction of waterworks;

(b) the laying of mains and other appliances to connect with any existing system of waterworks whether owned by the corporation or by any other person. 1927, c. 62, s. 58.

59.—(1) The council of a village or township may in the by-law for undertaking any work as a local improvement, define a section or area in the village or township and may provide that that part of the cost which would otherwise be the corporation's portion, together with such part as to the council may seem proper of what would otherwise be the owners' portion shall be assessed and levied on the whole rateable property in such defined section or area, and where the work is the construction of a watermain, sewer, sidewalk, curb or pavement and the petition for the work so requests, may also provide that the whole cost of the work including that part which would otherwise be the corporation's portion of the cost shall be specially assessed upon the lots fronting or abutting on the work.

Assessment of cost of works for benefit of defined areas.

(2) When the work undertaken is the construction of water works the whole cost together with the annual cost of managing and maintaining the work shall be assessed by a special rate on the whole rateable property in the area. 1927, c. 62, s. 59.

Assessment of cost of waterworks.

ADOPTION OF LOCAL IMPROVEMENT SYSTEM.

60.—(1) The council of a corporation by by-law passed with the assent of the municipal electors, in accordance with the provisions of *The Municipal Act*, may provide that all works which may be undertaken as local improvements, or any one or more classes or descriptions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise.

Adoption of local improvement system.

Rev. Stat. c. 233.

Repeal of
by-law.

(2) The by-law may be repealed but only by a by-law passed with the like assent. 1927, c. 62, s. 60.

MISCELLANEOUS.

Special
rates and
covenant
against in-
cumbrances.

61. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid, shall not, as between a vendor and a purchaser, or as respects a covenant against incumbrances, or for the right to convey, or for quiet possession free from incumbrances, be deemed to be an incumbrance upon the land upon which the special rate is charged or chargeable. 1927, c. 62, s. 61.

When work
may be
completed.

62. Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council. 1927, c. 62, s. 62.

Municipal
Board may
prescribe
forms.

63. The Railway and Municipal Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding which is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto; but the use of such forms shall not be obligatory. 1927, c. 62, s. 63.

FORM 1.

(Section 10.)

Take notice that

1. The Council of the Corporation of the _____ of _____ intends to construct as a local improvement (*describe the work*) on (or in) _____ street, between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$ _____, of which \$ _____ is to be paid by the Corporation. The estimated cost per foot frontage is _____. The special assessment is to be paid in _____ annual instalments.

3. A petition to the said council will not avail to prevent its construction, but a petition against the work or the manner in which it has been undertaken, may be made pursuant to section 8 of *The Local Improvement Act*, to the Railway and Municipal Board, by a majority of the owners representing at least one-half of the value of the lots which are to be specially assessed therefor.

4. A by-law for undertaking the work will be considered by the council at a meeting thereof to be held on the _____ day of 19____, or at a regular or special meeting thereof to be held thereafter.

Dated.

Clerk.

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.)

1927, c. 62, Form 1.

FORM 2.

(Section 12.)

Take notice that

1. The Council of the Municipal Corporation of the _____ of _____ intends to construct (*describe the work*) on (or in) _____ street between (*describe the points between which the work is to be constructed*) as a local improvement and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land.*)

2. The estimated cost of the work is \$ _____, of which \$ _____ is to be paid by the Corporation, and the estimated cost per foot frontage is _____. The special assessment is to be paid in _____ annual instalments.

3. Persons desiring to petition against undertaking the work must do so on or before the _____ day of _____ 19____.

Dated

Clerk.

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.)

1927, c. 62, Form 2.

FORM 3.

(Sections 37 (2) and 42.)

Take notice that

1. The Council of the Corporation of the _____ of _____ has constructed as a local improvement (*describe the work*) on (or in) _____ street between (*describe the points between which the work has been constructed*).

2. The cost of the work is \$ _____ of which \$ _____ is to be paid by the Corporation. The special rate per foot frontage is _____ . The special assessment is to be paid in _____ annual instalments.

3. The estimated lifetime of the work is _____ years.

4. A Court of Revision will be held on the _____ day of _____ 19____, at _____ o'clock at the (*insert place of meeting*) for the purpose of hearing complaints against the proposed assessments or the accuracy of frontage measurements and any other complaint which persons interested may desire to make and which is by law cognizable by the Court.
or (*where the Court of Revision proceeds under section 42*).

5. You are served with this notice because the Court of Revision is of opinion that your lot though not specially assessed should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sittings of the Court will be held on the _____ day of _____ 19____, at _____ o'clock at the (*insert place of meeting*) when the matter will be determined by the Court.

Dated _____

Clerk.

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.)

1927, c. 62, Form 3.